

Application No. 10/642,938  
Amendment dated August 31, 2005  
Reply to Office Action of May 31, 2005

**REMARKS**

Claims 47-87 appear in this application for the Examiner's review and reconsideration. The specification is amended to correct informality. As no new matter is introduced, Applicant respectfully requests that the amendment be entered at this time.

**Information Disclosure Statement**

In response to the Examiner's comment on German Patent No. DE 6605008, previously submitted in the information disclosure statement dated October 23, 2003, Applicant respectfully submits that DE 6605008 relates to adhesive sealing of adjacent sheets, and is considered only of background interest with regard to the combination of a film-foam underlayment and a free-floating laminate floor of present application. During the prosecution of the parent application, Application Serial No. 09/405,611 (which issued as U.S. Patent No. 6,607,803), this German reference was submitted for background information, having been cited as an "A" reference in an unrelated PCT application. In view of the above statement of relevance regarding DE 6605008, Applicant respectfully requests that the reference be made of record in this application by the Examiner's completion and return of the enclosed Form PTO-1449 listing the reference.

**Specification**

The specification is objected to because of the informality noted on page 2 of the Office Action. In response, the specification is amended as the Examiner has suggested, and the objection is therefore overcome.

**Double Patenting**

Claims 47-87 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 9, 17, 25, and 29 of U.S. Patent No. 6,607,803 to Foster ("the '803 patent") for the reasons set forth on pages 3-4 of the Office Action. Claims 51-53 and 83-87 are also rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 17 of the '803 patent in view of U.S. Patent No. 5,617,687 to Bussey, Jr. et al. for the reasons stated on page 5 of the Office Action.

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In response, Applicant submits herewith a terminal disclaimer in compliance with 37 C.F.R. § 1.321(c). This terminal disclaimer overcomes the double patenting rejection.

Formal Request for Interview

Applicant respectfully submits that this application is in condition for allowance. However, Applicant requests an interview with the Examiner to discuss the present application and the prior art of record if the Examiner does not agree. Applicant's Attorney, Daniel J. Hulseberg, may be reached at telephone number (212) 294-3310 to schedule a mutually convenient date and time and to provide assistance or additional information as required.

CONCLUSION

On the basis of the foregoing amendment and remarks, and the terminal disclaimer submitted herewith, Applicant respectfully submits that the pending claims of the present application are allowable over the prior art of record. Applicant thus respectfully requests that this Amendment be entered by the Examiner and that claims 47-87 be allowed. Favorable consideration and timely allowance of this application are respectfully requested.

Applicant authorizes the Commissioner to charge any additional fees and/or credit any overpayments associated with this paper to Winston & Strawn Deposit Account No. 50-1814, Ref. No. 086056-01190-USC1. Further, if a fee is required for an extension of time under 37 C.F.R. § 1.136 not provided for above, Applicant requests such extension and authorizes the charging of the extension fee to Winston & Strawn Deposit Account No. 50-1814, Ref. No. 086056-01190-USC1.

Respectfully submitted,

Date: August 31, 2005

  
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